1161.

SUPREME COURT OF THE UNITED STATES.

No. 176.

AMBROSE LECOMPTE, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT UNITED STATES FOR LOUISIANA.

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United States district court, district of Louisiana.

AMBROSE LECOMTE
vs.
THE UNITED STATES. } No. 16.

Be it remembered, that heretofore, to wit, on the fifth day of May, in the year of our Lord one thousand eight hundred and forty-six, Ambrose Lecomte, by his attorneys, P. A. Morse & Roysdon, esq'res, came into the office of the clerk of the United States district court for the district of Louisiana, and filed his petition, which is in the words and figures following, to wit:

Petition.

To the honorable district court of the United States, in and for the district of Louisiana.

The petition of Ambrose Lecomte, of the parish of Natchitoches, in the State of Louisiana, respectfully represents, that, on the 31st day of July, A. D. 1797, Jean Baptiste D'Artigeau, then an inhabitant of the jurisdiction of the post of Nacogdoches, (now parish of Sabine,) did make and sign a certain requette or petition asking for a grant of land of two leagues square, to include the whole of the prairie of Lianacoco, which should be the centre of the said grant, and to contain four square superficial leagues, or about 23,705 American acres; and that, on the same day, the said D'Artigeau did present the said petition or requette to Jose Maria Guadiana, then lieutenant governor and civil and military commandant of the post of Nacogdoches; whereupon, the said Guadiana did, on the said 31st day of July, 1797, aforesaid, grant and issue his order of survey to the proper officer to put the petitioner, D'Artigeau, in possession of the land, as prayed for in his said requette or petition, without prejudice to third persons, &c.; and that the said D'Artigeau took immediate possession of the above described tract of land, and continued to possess, inhabit, and cultivate the same, until he transferred the same by an act of exchange to Marie Louise Lecomte (Dame Porter) (Madame Monet) on

And your petitioner further represents, that the said tract of land was surveyed by the proper authority under the Government of the United States—a plan of which will be herewith filed, together with the requette, grant, and order of survey; all of which are referred to, and are made a part of this petition.

Your petitioner further represents, that the said Dame Porter transferred the above described tract of land to Jean Baptiste Lecomte, the father of the petitioner; but that your petitioner is the only heir of the said Dame Porter, as well as he is the only heir of his late father, Jean B. Lecomte; he, therefore, thinks it unnecessary to establish this last transfer.

Your petitioner further represents, that there is no one residing on the tract in question except one person who holds under him, and that no person to his knowledge claims, by purchase or otherwise, any part of the above described tract of land, and that the United States, to petitioner's knowledge, have never sold any part or portion of the above described tract of land.

Your petitioner further represents, that the title papers, together with the act of exchange made by the said D'Artigeau to the said Dame Porter, (Made. Monet,) were regularly filed in the land office at Opelousas in the year , and were reported on in 1816 and 1825—see State papers, vol. 3, page 81, and vol. 4, page 69; and the board of commissioners always recommended your petitioner's claim to Congress for confirmation, and that a bill to confirm the above described tract of land has passed the United States Senate several times and at different sessions, but failed in the House of Representatives for want of time.

Your petitioner further represents, that he is entitled, under the act of Congress, approved on the 17th June, 1844, authorizing suits to be instituted against the United States for the purpose of trying titles to land in the State of Louisiana, and for other purposes, to have his claim established against the United States in this honorable court, the benefit of which act of Congress he now claims.

The premises considered, your petitioner prays leave to file this his petition, that a copy thereof be served on the district attorney of the United States for the district of Louisiana, and he prays that, after proper proceedings, it may be decreed by this honorable court that the title of your petitioner to the above described tract of land is valid and good against the United States, and that he is entitled to a patent from the United States for the same according to the plat of survey aforesaid, or according [to] such a survey as may be approved by the surveyor general of the United States for the State of Louisiana.

Your petitioner prays for such other and further relief as justice, equity, and the nature of the case may require; and, as in duty bound, &c.

(Signed) JNO. L. DANIEL.
For MORSE & ROYSDON,
Attorneys for plaintiff.

Whereupon the following proceedings were had:

Citation.

United States district court, sitting in and for the district of Louisiana.

To the marshal for the eastern district of Louisiana, or his lawful deputy, greeting:

You are hereby commanded to summon S. W. Downs, U. S. district attorney, to appear before the honorable judge of the district court of the United States, sitting in and for the district of Louisiana, at a district court to be holden at New Orleans on the first Monday in June, 1846, then and there to answer a petition in chancery, filed against the United

States, wherein Ambrose Lecomte is petitioner, and the United States is respondent.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Memorandum.

The respondent is to enter his appearance in the above entitled cause in the clerk's office, on or before the first Monday of June, 1846, otherwise the petition may be taken pro confesso.

Witness the honorable T. H. McCaleb, judge, this fifth day [SEAL.] of May, New Orleans, 1846, and 70th of American independence.

N. R. JENNINGS, *Clerk.*

(Signed) By L. E. SIMONDS, *D'y clerk.*

Marshal's return.

Received this sixth day of May, 1846, and on the same day served copies of the within citation, plaintiff's petition, on the within named United States, in the manner following, to wit, by handing the same to Solomon W. Downs, esq., then district attorney for the district of Louisiana, in person, at New Orleans.

Returned same day.

(Signed) W. F. WAGNER, *U. S. Marshal.*

On the ninth of May, 1846, the following interrogatories were, by consent of counsel, placed on file:

Interrogatories.

AMBROSE LECOMTE
vs.
THE UNITED STATES.

District court of the United States.

Interrogatories to be propounded to Antoine Prud'homme and Bertrand Plaisance.

Interrogatory 1st. Did you or did [you] not know Jean Baptiste D'Artigeau, who lived in the jurisdiction [of] Nacogdoches some fifty years since?

Interrogatory 2d. Did you or did [you] not know that the said D'Artigeau had a large grant or concession of land at, and to include, the Lianacoco prairie?

Interrogatory 3d. Do you or do you not know that the said D'Artigeau transferred the said grant or concession of land, by act of exchange to Marie Louise Lecomte, (Dame Porter,) for another tract of land?

Interrogatory 4th. Do you or do you not know that Ambrose Lecomte, the plaintiff, is the only heir of the said Marie Louise Lecomte, (Dame Porter,) and that he is also the only heir of his late father, J. B. Lecomte?

Interrogatory 5th. Did you or did you not know the said D'Artigeau, and those holding under him, to be in possession of the said Lianacoco prairie; and have they not occupied [the] same as a vacherie for near fifty years?

Interrogatory 6th. If you know anything else that would aid the plaintiff in this suit, please state it as fully as if you had been interrogated thereon.

(Signed) JNO. L. DANIEL,
For MORSE & ROYSDON,
Attorneys for plaintiff.

Cross interrogatories.

1st. Are you related to the plaintiff in this cause; and have you any interest, directly or indirectly, in the event of the suit?

2d. How old are you; and where have you resided since 1803?

3d. What was the boundary lying between the posts of Nacogdoches and Natchitoches under the Spanish government?

4th. Did the commandant of Nacogdoches, or the governor or intendant of the province of Louisiana, under the Spanish government, ever give permissions to settle, or other titles for land, between the Rio Hondo and the Sabine?

5th. State anything else you may know that will be in favor of the defendant, or will show that plaintiff's title is not a good one, in as full and complete a manner as if specially interrogated on every point.

(Signed) S. W. DOWNS,
U. S. Atty., dist. of La.

Answer.—Filed June 13th, 1846.

AMBROSE LECOMPTE
vs.
THE UNITED STATES.

DISTRICT COURT OF THE U. STATES,
District of Louisiana:

The defendants in this cause, by their attorney, S. W. Downs, for answer deny all and singular the facts and allegations in the plaintiff's petition contained, and will on the trial of the cause require strict legal proof of the same; and pray that the suit may be dismissed at the cost of the plaintiff, and for general relief.

(Signed) S. W. DOWNS,
U. S. Atty., dist. of Louisiana.

Original petition for land, filed November 12th, 1846.

(*Document* 3.)

Dn. Juan Bapta. D'Artigau á vm. expone, con el devido respeto, que desea establecer un rancho de cavallada y ganado mayor en el parage llamado Lianacucu, de esta jurisdiccion; en cuya virtud, á vm. suplica se sirva concederle dos leguas de tierra quadrada en el citado parage, de

manera que en ellas quede comprehendido todo el llano de Lianacueu, tanto para él como para sus hijos, herederos, y quienes su causa havien ren: Por tanto, á vm. suppa. se sirva otorgante esta gracia, que esperm merecer de la justification de vm.

Nacogdoches y Julio 31 de 1797.

J. BTE. ARTIGAUX.

NACOGDOCHES, 31 *de Julio de* 1797.

Pase esta instancia al procurador de este comun, pra. que, no haviendo perxuicio de terrano, dixe en posesion al interesado de la tierra que solicita.

GUADIANA.

Said original is thus endorsed:

Madam Porter's claim, 2 leagues square.

Recorded by the deputy register at Natchitoches, in the book of records of titles kept by him, page 141.

(Signed) LEVIN WAILES,
Reg'r of the land office.

Translation.

Don Juan Baptiste d'Artigeau respectfully begs leave to state to your excellency that he desires to establish a stock farm to raise horses, mares, and horned cattle, at the place called Lianacoco, within this jurisdiction; for said object, he prays your excellency will please grant him two leagues square of land at the above mentioned place, so that in these two leagues be included or embraced the entire prairie of Lianacoco.

The petitioner solicits this grant for himself, his children and assigns, and from your well known sense of justice he hopes to obtain it.

Nacogdoches, 31st July, 1797.

(Signed) J. B. D'ARTIGAU.

NACOGDOCHES, 31*st July*, 1797.

Let this petition be handed to the solicitor general of this place, in order that the petitioner be placed in possession of the land therein mentioned, if in so doing no prejudice can result to any third party.

(Signed) GUADIANA.

On the 28th of December, 1846, the following order was entered of record.

Entry of record.

Monday, December 28, 1846. Present: Hon. T. H. McCaleb.

AMBROSE LECOMTE
vs.
THE UNITED STATES.

Upon motion of J. L. Daniel, for Morse and Roysdon, counsel for plaintiff, it is ordered by the court, that commissions be issued to Fred.

eric Williams, appointed commissioner of the court, living in Natchitoches, to take the depositions of certain witnesses residing in that part of Louisiana, as named in the interrogatories, and that the said commission be returnable in forty days.

On the 29th December, 1846, the following interrogatories were placed on file:

Interrogatories.

AMBROSE LECOMTE
vs.
THE UNITED STATES.

District court of the U. States, in and for the State or district of Louisiana.

Interrogatories to be propounded to Bertrand Plaisance, G. Lecour, and Charles E. Gienana, which, when answered, are to be read in evidence in the above entitled suit.

Int. 1st. Do you or do you not know that the plaintiff in the above entitled suit is the heir and the only and legal representative of Jean Baptiste Lecomte and of Marie Louise Lecomte, (Madame Monet, Dame Marie Louise Porter?)

Int. 2d. Do you or do you not know a claim or grant of land, claimed by the plaintiff in this suit, which includes the prairie Lianacucu or Lianacoco? If yea, please state how long you have known the same to be in the possession and occupancy of the plaintiff (and those under whom he claims) as a vacherie.

Int. 3d. Do you or do you not know that the said Marie Louise Lecomte (Dame Porter) had the said tract or claim of land from Jean Baptiste D'Artigau, the original grantee, by an act of exchange?

Int. 4th. Did you or did you not know Gaspard Boudin, Samuel Davenport, José Maria Mora, José Flores, and John Cortez? If you please, state if any or all of them are not dead; and if any of them are living, please state (if you can) where they live.

Int. 5th. If you know of any thing else which would further the ends of justice in this suit, please state the same as fully as if you had been interrogated thereto.

(Signed) JOHN L. DANIEL,
For MORSE & ROYSDON,
Att'ys for plaintiff.

Cross interrogatories to be answered by each of the above named witnesses.

It is well understood that the testimony, under the annexed commission, is taken subject to all legal exceptions.

1st. Have you any interest in the result of this suit?

2d. Will you gain or lose anything should this suit be decided in favor of the plaintiff?

3d. Are you related to the plaintiff in this suit; and if yea, in what degree?

4th. Do you claim any land by grant from the Spanish commandant of the post of Nacogdoches, or are you interested in any such claim; or does any one related to you have such a claim; and what is the nature of each of said claims?

5th. Were you personally acquainted with Jean Baptiste Lecomte and Marie Louise Lecomte; if deceased, when did they die?

6th. What is your age; where were you born; how long have you resided in your present place of residence; where is it; did you ever reside in Nacogdoches, Texas; during what space of time, and between what dates?

7th. Under whom does the plaintiff claim the land in question; if you know, state whether you were personally acquainted with that person, and during what time; did he actually reside on this land, and when?

8th. Did you know Jean Baptiste D'Artigau; if yea, where is he now; if you say he is dead, when did he die, and where?

9th. If you state that you know of the act of exchange mentioned in the third chief interrogatory, then were you present when it was passed; did you sign the writing as a witness; where is said writing now; can you produce it?

10th. If in answer to the fourth chief interrogatory you state that any of the persons therein mentioned are dead, then, in regard to each one, where did he die; were you present at his death; were you personally and intimately acquainted with him; if not present at his death, when did you see him last; how old was he then; what was his profession or occupation; what is the specific source of your knowledge of his death; was he owner of, or interested in, any claim or grant of lands from the commandant of the Spanish post of Nacogdoches?

(Signed) THOMAS J. DURANT,
Atty. of the U. S. for the dist. of Louisiana.

Commission A.

Court of the United States for the district of Louisiana, to Fred. Williams, U. S. commissioner, parish of Natchitoches:

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you, that you call and cause to come before you Bertrand Plaisance, G. Lecour, and Charles E. Grenaux, and them duly examine on oath, touching and concerning certain matters and things in a cause now depending in said court, wherein Ambrose Lecomte is plaintiff, and the United States are defendants; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause; and send also this writ.

Witness the Hon. Theo. H. McCaleb, judge of said court, at the city of New Orleans, this twenty-ninth day of December, A. D.
[SEAL.] 1846, and the 71st year of the independence of the United States of America.

(Signed) N. R. JENNINGS, *Clerk.*

On the 30th of December, 1846, the following order was also entered of record:

Entry of record.

Wednesday, December 30th, 1846. Present, Hon. T. H. McCaleb.

AMBROSE LECOMTE
vs.
THE UNITED STATES.

Upon motion of Daniels, for Morse and Roysdon, of counsel for the plaintiff, it is ordered by the court, that a commission be issued at the same time with the commissions already ordered, directed in like manner to Natchitoches, together with a copy of the interrogatories filed on the 9th day of May, 1846, said interrogatories being crossed by S. W. Downs, late district attorney, and upon which no commission at the time was issued.

Commission B.

Court of the United States for the district of Louisiana, to Frederick Williams, United States commissioner, parish of Natchitoches:

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you, that you call and cause to come before you Antoine Prudhomme and Bertrand Plaisance, and them duly examine on oath, touching and concerning certain matters and things in a cause now depending in the said court, wherein Ambrose Lecomte is plaintiff, and the United States are defendants; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause; and send also this writ.

Witness the Hon. Theo. H. McCaleb, judge of said court, at the city of New Orleans, this thirty-first day of December, A. D. 1846, [SEAL.] and the 71st year of the independence of the United States of America.

(Signed) N. R. JENNINGS, *Clerk.*

On the 8th of February, 1847, the following was entered of record:

Entry of record.

MONDAY, *February 8th*, 1847.

Present: Hon. Theo. H. McCaleb.

AMBROSE LECOMTE
vs.
THE UNITED STATES. } No. 16.

The above cause, as numbered and entitled, being fixed for trial this day, was, upon motion of the United States district attorney, the court being engaged in other business, continued until further notice.

On the 3d of May, 1847, the following order was entered of record:

Entry of record.

MONDAY, *May 3d*, 1847.

Present: Hon. Theo. H. McCaleb.

AMBROSE LECOMTE vs. THE UNITED STATES. } No. 16.

Upon motion of Daniels, esq., of counsel for the plaintiff in the above entitled cause, it is ordered that the plaintiff be allowed to file a supplemental petition in said cause.

Supplemental petition, filed May 3d, 1847.

AMBROSE LECOMTE vs. THE UNITED STATES. } No. 16.

To the honorable the district court of the United States, in and for the district of Louisiana.

The supplemental petition of Ambrose Lecomte, the plaintiff in the above entitled suit, with respect represents, that the warrant and order of survey and grant legally made and issued to J. B D'Artigau as aforesaid, in the original petition, was such as might and could have been perfected into a complete title under the laws, usages, and customs of Spain, had not the sovereignty of the country been changed; that the same was secured by treaty stipulations, and was and is good and valid under the law of nations, and by the several acts of Congress.

Your petitioner prays that a copy of this supplemental petition may be served on the United States district attorney for the district of Louisiana, and prays, as he has before prayed, that after proper proceedings this honorable court may decree the title or grant of your petitioner good and valid against the United States; and your petitioner prays for general relief, &c.

(Signed) JNO. L. DANIEL,
For MORSE & ROYSDEN,
Att'ys for plaintiff.

Citation.

United States district court, sitting in and for the district of Louisiana, to Thomas J Durant, attorney of the United States, residing in New Orleans.

You are hereby summoned to comply with the prayer of the annexed supplemental petition, or file your answer thereto in writing, in the office of the clerk of the district court of the United States for the district of Louisiana, in the city of New Orleans, within ten days from service hereof, or judgment will be given against you by default.

AMBROSE LECOMTE vs. THE UNITED STATES. } No. 16.

Witness the Hon. Theo. H. McCaleb, judge of the said court at the city of New Orleans, this fourth day of May, 1847, and 71st year of the independence of the United States.

[SEAL.]

(Signed) N. R. JENNINGS, *Clerk.*

Return.

Received May 4th, 1847, and on the same day served copy of the within citation and supplemental petition on Thos. J. Durant, esq., in person, at New Orleans.

Returned May 4th, 1847.

(Signed) CHS. A. LABUZAN,
Deputy Marshal.

Answer, filed May 5th, 1847.

AMBROSE LECOMTE vs. THE UNITED STATES. } No. 16.

In the district court of the United States for the district of Louisiana, before the honorable T. H. McCaleb, judge of said court.

Thomas J. Durant, attorney of the United States for the district of Louisiana, now comes into the district court aforesaid, and on behalf of the United States responds to the original petition, and to the supplemental petition filed against them by A. Lecomte, and for answer thereunto he says, that the said United States deny all and singular the facts and allegations in said petition and in said supplemental petition contained.

Wherefore he prays that said petition be dismissed, and that plaintiff be condemned to pay all costs.

(Signed) THOMAS J. DURANT,
Attorney of the U. S. for the district of Louisiana.

Replication, filed June 8th, 1847.

AMBROSE LECOMTE vs. THE UNITED STATES. } No. 16.

In the district court of the United States for the district of Louisiana.

The repliant, saving and reserving all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereto says, that he will aver and prove his said petition as amended to be true, certain, and sufficient in law to be answered unto, and that the said answer of the defendants is uncertain, untrue, and insufficient, &c.

1167.

All which matters and things this repliant is and will be ready to aver and prove as this honorable court directs, and humbly prays as in and by his said petition he has already prayed, &c.

(Signed) P. A. MORSE, *Atty. for plaintiff.*

Affidavit of plaintiff, filed June 8th, 1847.

A. LECOMTE
vs.
THE UNITED STATES. } No. 16.

In the district court of the United States for the district of Louisiana.

Personally came and appeared before the undersigned authority, A. Lecomte, the plaintiff in the above entitled cause, who, on oath, says, that he has been unable to find the deed of sale or exchange from J. B. D'Artigau to Marie Louise Lecomte for the land claimed in the above suit; that he has caused a careful search to be made for the same in the office of the recorder of Natchitoches, and at other offices and places where it might probably be found, without success; that to the best of his recollection he never saw said deed, and believes that if it ever existed that it has been lost.

(Signed) A. LECOMTE.

Sworn to and subscribed before me, this 8th day of June, A. D. 1847.

(Signed) N. R. JENNINGS, *Clerk.*

Evidence.

On the twelfth day of June, A. D. 1847, the parties, plaintiff and defendant, appeared, by their respective counsel, and filed in court the following memoranda of evidence, together with sundry other documents therein referred to, and hereafter copied in extenso:

Memoranda.

A. LECOMTE
vs.
THE UNITED STATES. } No. 16.

"Memoranda of evidence offered by plaintiff to be submitted to the court by consent—June 12th, 1847.

1. Commission marked A. Testimony taken under commission.
2. Commission marked B. Testimony taken under commission.
3. Document marked 3, being a petition and grant by Guadiana, dated the 31st of July, 1797, and order thereon, and with translation.
4. Testimony of H. A. Bullard taken before N. R. Jennings, commissioner.
5. Extract from the report of the commissioners, No. 426, dated November 1st, 1824, 4th vol. State papers, public domain, pages 34, 35, and 36, being answers of Samuel Davenport, Jose M. Moras, and als.

6. Extract from the report of the commissioner, No. 235, dated May 4th, 1816, 3 vol. State papers, public domains, page 81, No. 63.

7. Extract from the report of the commissioners, No. 426, dated Nov. 1st, 1824, 4th vol. State papers, public domain, page 69, No. 230.

8. Sale from Maria Louise Lecomte, Dame Porter, to J. B. Lecomte, fils, dated the 19th of June, 1813.

9. Document marked 9. Receipt of D. S. Todd, receiver, dated the 27th of December, 1823.

10. Document marked 10, being the plat of the land claimed by plaintiff, and made by Jose Irwin, deputy surveyor, dated 1813.

11. Document marked 11, being a map of township 3 north, range 9 west, southwestern district of Louisiana.

The case to be submitted by brief on the above testimony.

New Orleans, June 12th, 1847.

(Signed) THOMAS J. DURANT,
Att'y of the U. States, dist. of La.

(Signed) P. A. MORSE,
Plaintiff's attorney.

Testimony taken under commission, marked A.

AMBROSE LECOMTE
vs.
THE UNITED STATES. } No. 16.

District court of the United States, in and for the State or district of Louisiana.

Interrogatories to be propounded to Bertrand Plaisance, G. Lecour, and Charles E. Grenaux, which, when answered, are to be read as evidence in the above entitled suit.

Int. 1st. Do you or do you not know that the plaintiff in the above entitled suit is the heir, and the only heir and legal representative, of Jean Baptiste Lecomte, and of Marie Louise Lecomte (Madame Monet, Dame Marie Louise Porter)?

Int. 2d. Do you or do you not know a claim or grant of land claimed by the plaintiff in this suit, which includes the Prairie Lianacucu or Lianacoco? If yea, please state how long you have known the same to be in the possession and occupancy of the plaintiff (and those under whom he claims) as a vacherie.

Int. 3d. Do you or do you not know that the said Marie Louise Lecomte (Dame Porter) had the same tract or claims of land from J. B. D'Artigeau, the original grantee, by an act of exchange?

Int. 4th. Did you or did you not know Gaspard Boudin, Samuel Davenport, Jose Maria Mora, Jose Flores, and John Cortes? If yea, please state if any or all of them are not dead; and if any of them are living, please state (if you can) where they live.

Int. 5th. If you know of any thing else that would further the ends

of justice in this suit, please state the same as fully as if you had been interrogated thereto.

(Signed) JOHN L. DANIEL,
For Morse and Roysdon, attorney for plaintiff.

Cross interrogatories to be answered by each of the above named witnesses.

It is well understood that the testimony under the annexed commission is taken subject to all legal exceptions.

First. Have you any interest in the result of this suit?

Second. Will you gain or lose any thing, should this suit be decided in favor of the plaintiff?

Third. Are you related to the plaintiff in this suit, and if yea, to what degree?

Fourth. Do you claim any land by grant from the Spanish commandant of the post of Nacogdoches, or are you interested in any such claim, or does any one related to you have such a claim, and what is the nature of each of said claims?

Fifth. Were you personally acquainted with Jean Baptiste Lecomte and Marie Louise Lecomte? If deceased, when did they die?

Sixth. What is your age? Where were you born? How long have you resided in your present place of residence? Where is it? Did you ever reside in Nacogdoches, Texas? During what space of time and between what dates?

Seventh. Under whom does the plaintiff claim the land in question? If you know, state whether you were personally acquainted with that person, and during what time? Did he actually reside on this land, and when?

Eighth. Did you know Jean Baptiste D'Artigaux? If yea, where is he now? If you say he is dead, when did he die, and where?

Ninth. If you state that you know of the act of exchange mentioned in the third chief interrogatory, then were you present when it was passed? Did you sign the writing as a witness? Where is said writing now? Can you produce it?

Tenth. If, in answer to the fourth chief interrogatory, you state that any of the persons therein mentioned are dead, then, in regard to each, where did he die? Were you present at his death? Were you personally and intimately acquainted with him? If not present at his death, when did you see him last? How old was he then? What was his profession or occupation? What is the specific source of your knowledge of his death? Was he owner of, or interested in, any claim or grant of land from the commandant of the Spanish post at Nacogdoches?

(Signed) THOMAS J. DURANT,
Att'y of the U. S. for the district of Louisiana.

CLERK'S OFFICE, *December 29th*, 1846.

I certify that the foregoing is a true copy from the original on file.

(Signed) N. R. JENNINGS, *Clerk.*

Deposition of Charles E. Grenaux.

AMBROSE LECOMTE
vs.
THE UNITED STATES.

January 13th, 1847.

In the district court of the United States in and for the State or district of Louisiana.

Charles E. Grenaux, being duly sworn, deposes and says as follows, to wit:

To the first interrogatory he answers and says: That he does not know.

To the second interrogatory he answers and says: That he knows nothing of his own personal knowledge in regard to said claim.

To the third interrogatory he answers and says: That he does not know.

To the fourth interrogatory he answers and says: That he knew Gaspard Baudin, Samuel Davenport, José Maria Mora, and John Cortez; that Baudin, Davenport, and Cortez are dead. Never knew Josea Flores. Does not know whether Josea Maria Mora is living or not; if living, does not know where?

To the fifth interrogatory he answers and says: That he knows nothing further.

Cross interrogatories.

To the first interrogatory he answers and says: No.

To the second interrogatory he answers and says: No.

To the third interrogatory he answers and says: That he is not related to the plaintiff in this suit.

To the fourth interrogatory he answers and says: That his wife, as one of the heirs of Edward Murphy, deceased, claims a portion of two tracts of land under similar titles, as witness believes, as those mentioned in this interrogatory; that said claims are the same for a portion of which judgment was lately obtained, in the city of New Orleans, against the United States, at the suit of Mr. Justice and others.

To the fifth interrogatory he answers and says: That he was personally acquainted wth Jean Baptiste Lecomte; was not acquainted with Marie Louise Lecomte; they are both dead; does not recollect when they died.

To the sixth interrogatory he answers and says: That he was forty-two years of age on the first day of last June; was born in the parish of St. Landry, in this State; his parents moved to this parish whilst he was an infant, and he has resided in the parish of Natchitoches ever since; his present residence is the town of Natchitoches; never resided in Nacogdoches, Texas.

To the seventh interrogatory he answers and says: That he knows nothing of the facts inquired for in the said interrogatory.

To the eighth interrogatory he answers and says: That he never did know Jean Baptiste D'Artigaux.

To the ninth interrogatory he answers and says: That he does not know any thing of the act of exchange mentioned in the third interrogatory in chief.

To the tenth interrogatory he answers and says: That Gaspard Baudin, as far as witness recollects, died in the parish of Natchitoches; that the common report, which witness believes to be true, is that Samuel Davenport died at the Warm Springs, in Arkansas, and John Cortez in the city of New Orleans; was not present at the death of either of them; was personally but not intimately acquainted with them; does not recollect when he saw Gaspard Baudin last; thinks that he saw Samuel Davenport last in the year 1824 or 1825, and John Cortez some time in the fall or winter of the year 1828. They were all then old men, but does not know their age. He does not know what was the profession or occupation of Gaspard Baudin; Samuel Davenport was a cotton-planter, and John Cortez a merchant. Witness has no other specific source of his knowledge of their deaths than common report, which he believes to be true, having constantly resided in the parish of Natchitoches since he can recollect. Davenport was also included in the Murphy claims to land mentioned in the answer to the fourth cross interrogatory; does not know whether Cortez or Baudin were interested in any such claims.

(Signed) C. E. GRINAUX.

Sworn to and subscribed this 13th day of January, A. D. 1847, before me.

(Signed) T. WILLIAMS,
Commissioner of the U. St. dist. of La. and justice of the peace, parish of Natchitoches.

Deposition of Bertrand Plaisance.

And afterwards, to wit, on this eighteenth day of January, eighteen hundred and forty-seven, personally came and appeared Bertrand Plaisance, who being first duly sworn, deposes and says as follows, to wit:

To the first interrogatory he answers and says: Yes; that he is the only legal heir and representative of Jean Baptiste Lecomte and Marie Louise Lecomte, (Madame Monet, Dame Marie Louise Porter.)

To the second interrogatory he answers and says: No, he does not know.

To the third interrogatory he answers and says: No, he does not know.

To the fourth interrogatory he answers and says: Yes; that he knew them all; that they are all dead, unless perhaps José Maria Mora may be living, of which he has no knowledge. If living, witness does not know where.

To the fifth interrogatory he answers and says: That he knows nothing further.

Cross interrogatories.

To the first interrogatory he answers and says: No.

To the second interrogatory he answers and says: No.

To the third interrogatory he answers and says: No.

To the fourth interrogatory he answers and says: That he does not own, nor is he interested in, any such claim; does not know whether any one related to him has any such claim or not.

To the fifth interrogatory he answers and says: That he was personally acquainted with Jean Baptiste Lecomte and Marie Louise Lecomte; they are dead; that Jean Baptiste Lecomte died about twenty years ago; and that Mary Louise Lecomte died about twenty-five years ago.

To the sixth interrogatory he answers and says: That he is about seventy-four years of age; he was born in this parish; he has always resided where he now lives; that he resides in the parish of Natchitoches; that he never has resided in Nacogdoches.

To the seventh interrogatory he answers and says: No.

To the eighth interrogatory he answers and says: That he knew Jean Baptiste D'Artigaux; that he is dead; he died about forty years ago, on his way to New Orleans, of the bite of a mad dog.

To the ninth interrogatory he answers and says: No.

To the tenth interrogatory he answers and says: That Gaspard Baudin died in the parish of Natchitoches; was not present at his death; he was personally acquainted with him; he saw [him] last about twenty years ago; he was then about forty years of age; he was a hunter. Witness knows that he is dead because it is a notorious fact; does not believe that he owned or was interested in any claim or grant of land from the commandant of the Spanish post of Nacogdoches; that Samuel Davenport lived at Grand Ecole, in this parish; he was not present at his death; he was personally acquainted with him; he knows that he is dead, because it is notorious and every one knows it; he does not recollect that any one who was present at his death told him so. Witness understood that he died at Little Rock, Arkansas; that he last saw him about twenty years ago, which was about the time he left for Little Rock; that he was then about sixty years of age; that Samuel Davenport, when witness first knew him, was a merchant, and afterwards became a planter; that he believes Davenport was interested in land claims. That Jose Flores lived at Bayou Pierre, then in the parish of Natchitoches. Witness was not present at his death; he was personally acquainted with him; he knows that he is dead because it is notoriously known to the public; that no one who was present at his death told him so; he last saw Flores between twelve and fifteen years ago; he was about fifty-five or sixty years of age at that time; he was a planter of Bayou Pierre. Witness does not know whether he was owner or interested in any claim to land or not. That John Cortez lived in the town and parish of Natchitoches; he was not present at his death; he was personally acquainted with him; that he saw him start from Natchitoches sick for New Orleans, and that Mrs. Cortez, upon

her return to Natchitoches, told witness that Mr. Cortez was dead. Mrs. Cortez, the wife of the said John Cortez, is dead; that she died in the town of Natchitoches; that he last saw John Cortez about eighteen years ago; that he was about fifty-five or sixty years of age. John Cortez was a merchant. Witness does not know that John Cortez ever had any claim, or was interested in any claim, to land granted by the Spanish commandant of the post of Nacogdoches, but thinks he had not. Witness does not know what has become of Jose Maria Mora. The last time he saw him, which was about twelve years ago, he was living near the Adais.

his
BERTRAND X PLAISANCE.
mark.

Declaring that he knew not how to write his name.

Sworn to and subscribed, this 18th day of January, A. D. 1847; before me.

(Signed) T. WILLIAMS,
Commissioner of United States district court, district of Louisiana, and justice of the peace, parish of Natchitoches.

Deposition of Gaspard Lacour.

And afterwards, to wit, on this fifth day of February, eighteen hundred and forty-seven, personally came and appeared Gaspard Lacour, who, being first duly sworn, deposes and says as follows, to wit:

To the first interrogatory he answers and says: That he knows that the plaintiff in the above entitled suit is the heir, and only heir and legal representative, of Jean Baptiste Lecomte and Marie Louise Lecomte, (Madame Monet, Dame Marie Louise Porter.)

To the second interrogatory he answers and says: Yes. That he has known the land in question to be occupied by the plaintiff and the plaintiff's father for about forty years as a vacherie.

To the third interrogatory he answers and says: That it was a fact publicly known that Madame Marie Louise Lecomte (Dame Porter) held this tract of land by an exchange from Jean Baptiste D'Artigaux, the original grantee, but does not recollect of ever having seen the act of exchange, not knowing how to read and write.

To the fourth interrogatory he answers and says: That he knew Gaspard Boudin and John Cortez; that John Cortez is dead; he does not know whether Gaspard Boudin is dead or not; he believes he is; has heard so. Witness further says, that he always understood that there was a planter by the name of Samuel Davenport living in the parish of Natchitoches, but never became personally acquainted with him, witness living in the lower part of the parish. Witness does not recollect the other persons named in the interrogatory.

To the fifth interrogatory he answers and says: That for the last forty years, more or less, the plaintiff and those under whom he claims have had possession of the Lianacoco prairie, and occupied it as a

vacherie, and that the plaintiff has kept it up to the present time for the same purpose, witness having been there several times.

Cross interrogatories.

To the first interrogatory he answers and says: No.

To the second interrogatory he answers and says: No.

To the third interrogatory he answers and says: No; that he is not in any way related to the plaintiff in this suit.

To the fourth interrogatory he answers and says: No.

To the fifth interrogatory he answers and says: That he was personally acquainted with Jean Baptiste Lecomte and Marie Louise Lecomte; that they are both dead; that Jean Baptiste died about twenty years ago; that Marie Louise Lecomte died a few years previous.

To the sixth interrogatory he answers and says: That he is about seventy-five years of age; that he was born in the parish of Natchitoches; that he has always resided in the parish of Natchitoches; that he never resided in Nacogdoches, Texas.

To the seventh interrogatory he answers and says: That he has always understood that the plaintiff claimed the land in question under Jean Baptiste D'Artigaux; that he was personally acquainted with Jean Baptiste D'Artigaux; that witness has known him ever since he, witness, was eighteen or twenty years of age; that he does not recollect whether he resided on the land or not.

To the eighth interrogatory he answers and says: That he was personally acquainted with Jean Baptiste D'Artigaux in this parish; that he is dead; that he died on a trip to New Orleans; does not recollect the time.

To the ninth interrogatory he answers and says: That he has already answered this interrogatory in his answer to the third interrogatory in chief; that he did not sign the act of exchange as a witness, and does not know where it is.

To the tenth interrogatory he answers and says: That John Cortez lived in the town and parish of Natchitoches; that he was not present at his death; that he was personally acquainted with him; that he saw him last in the town of Natchitoches; does not recollect the time; that he, Cortez, was about fifty years of age when witness last saw him many years ago; does not recollect how many; that John Cortez was a merchant; that he knows that John Cortez is dead because it is a fact notorious in this community; that he never heard that he owned, or was interested in, any claim or grant of land from the commandant of the Spanish post of Nacogdoches.

That Gaspard Boudin lived in the parish of Natchitoches; that he has known him since their childhood; they were about the same age; he does not know where he died; that he last saw him in the parish of Natchitoches; does not recollect the time; that Boudin was a hunter; he knows that he is dead, because it is known to all; does not believe that

he owned or was interested in any claim or grant of land from the commandant of the Spanish post of Nacogdoches, Texas.

his
GASPARD ⋈ LACOUR,
mark.

Declaring that he could not write his name.

Sworn to and subscribed this 5th day of February, A. D. 1847, before me.

(Signed) T. WILLIAMS,
Commissioner of United States district court, district of Louisiana, and justice of the peace, parish of Natchitoches.

STATE OF LOUISIANA, *Parish of Natchitoches.*

By virtue of the annexed commission, I caused to come and appear before me at my office in the town and parish of Natchitoches, on the days and dates herein before written, Bertrand Plaisance, G. Lacour, and Charles E. Grinaux, witnesses for the plaintiff in a certain suit now pending in the court of the United States, for the district of Louisiana, in the city of New Orleans, in which Ambrose Lecomte is plaintiff and the United States are defendants; and the said witnesses, having been duly sworn to true answers make to the interrogatories propounded to them in the said cause, their answers to the same were reduced to writing by me in their presence, and subscribed to by them in the manner as herein before specified in my presence.

In testimony whereof I have hereunto subscribed my name and affixed the impression of my private seal at the town of Natchitoches, this 5th day of February, A. D. 1847.

(Signed) T. WILLIAMS,
Commissioner United States district court, district of Louisiana, and justice of the peace, parish of Natchitoches.

Testimony taken under commission, marked B.

AMBROSE LECOMTE
vs.
UNITED STATES.

DISTRICT COURT OF THE UNITED STATES:

Interrogatories to be propounded to Antoine Prudhomme and Bertrand Plaisance.

Interrogatory 1st. Did you or did you not know Jean Baptiste D'Artigaux, who lived in the jurisdiction of Nacogdoches some fifty years since?

Interrogatory 2d. Did you or did you not know that the said D'Artigeau had a large grant or concession of land at, and to include, the Lianacoco Prairie?

Interrogatory 3d. Do you or do you not know that the said D'Artigeau transferred the said grant or concession of land by act of exchange to Marie Louise Lecomte (Dame Porter) for another tract of land?

Interrogatory 4th. Do you or do you not know that Ambrose Lecomte, the plaintiff, is the only heir of the said Marie Louise Lecomte, (Dame Porter,) and that he is also the only heir of his late father, J. B. Lecomte?

Interrogatory 5th. Did you or did you not know the said D'Artigeau, and those holding under him, to be in possession of the said Lianacoco prairie, and have they not occupied the same as a vacherie for near fifty years?

Interrogatory 6th. If you know any thing else that would aid the plaintiff in this suit, please state it as fully as if you had been interrogated thereon.

(Signed) JNO. L. DANIEL,
For MORSE & ROYSDON,
Attorneys for plaintiff.

Cross interrogatories.

1st. Are you related to the plaintiff in this cause, or have you any interest, directly or indirectly, in the event of this suit?

2d. How old are you; and where have you resided since 1803?

3d. What was the boundary line between the posts of Nacogdoches and Natchitoches, under the Spanish government?

4th. Did the commandant of Nacogdoches, or the governor or intendant of the province of Louisiana, under the Spanish government, ever give permissions to settle or other titles for land between the Rio Hondo and the Sabine?

5th. State any thing else you may know that will be in favor of the defendants, or will show that plaintiff's title is not a good one, in as full and complete a manner as if specially interrogated on every point.

(Signed) S. W. DOWNS,
U. S. Att'y, Dist. of La.

CLERK'S OFFICE, *December 30th*, 1846.

I certify that the foregoing is a true copy from the original on file.

(Signed) N. R. JENNINGS, *Clerk.*

Deposition of Bertrand Plaisance.

AMBROSE LECOMTE
vs.
THE UNITED STATES.

In the district court of the United States, in and for the State or district of Louisiana.

Bertrand Plaisance, who being first duly sworn, deposes and says as follows, to wit:

To the first interrogatory he answers and says: Yes.

To the second interrogatory he answers and says: No.

To the third interrogatory he answers and says: No.

To the fourth interrogatory he answers and says: Yes.

To the fifth interrogatory he answers and says: That he never knew this grant of land personally; but he has always understood that the

Lecomtes had it in possession and occupied it as a vacherie; that, near forty years ago, witness was an assessor for the parish of Natchitoches, and that the claims of Lianacoco prairie was given in by Lecomte as his property and taxed.

To the sixth interrogatory he answers and says: That he knows nothing further.

Cross interrogatories.

To the first interrogatory he answers and says: No.

To the second interrogatory he answers and says: That he is about seventy-four years of age, and has always resided in Natchitoches.

To the third interrogatory he answers and says: The bayou Rio Hondo, which is about six miles northwest of the town of Natchitoches.

To the fourth interrogatory he answers and says: That he knows of many grants made by the commandant of Nacogdoches; but he is not acquainted with any grants made by the governor of Louisiana within those limits; that, under the Spanish government, the jurisdiction of the commandant of Nacogdoches covered the territory lying between the Rio Hondo and the Sabine river.

To the fifth interrogatory he answers and says: That he knows nothing in favor of the defendant in this suit; but what he does know is in favor of the plaintiff.

his
BERTRAND ⋈ PLAISANCE.
mark.

Declaring that he does not know how to write his name.

Sworn to and subscribed, this 18th day of January, A. D. 1847, before me.

T. WILLIAMS,
Commissioner U. S. dist. court, dist. of Louisiana, and justice of the peace par. of Natchitoches.

Deposition of Antoine Prudhomme.

And afterwards, on this twenty-first day of January, eighteen hundred and forty-seven, personally came and appeared Antoine Prud'homme, who being first duly sworn, deposes and says as follows, to wit:

To the first interrogatory he answers and says: That he knew Jean Baptiste D'Artigeau more than fifty years ago.

To the second interrogatory he answers and says: That he knew that the said D'Artigeau has a large concession of land, including the Lianacoco prairie, for the purpose of establishing a vacherie.

To the third interrogatory he answers and says: That he knows that the said D'Artigeau transferred this concession of land to Marie Louise Lecomte, in exchange for another tract of land at the Tancock prairie; that the exchange was made more than fifty years ago; that he is sure that the exchange took place before the establishment of the United States Government in the State of Louisiana.

To the fourth interrogatory he answers and says: That he knows

that Ambrose Lecomte, the plaintiff, is the only heir of the said Marie Louise Lecomte, Dame Porter, and that Ambroise Lecomte is also the only heir of his late father, Jean Baptiste Lecomte.

To the fifth interrogatory he answers and says: That, for more than fifty years, the plaintiff, and those under whom he claims, have had possession of the said prairie and occupied it as a vacherie, and that the plaintiff has kept it up to the present time for the same purpose.

To the sixth interrogatory he answers and says: That he knows that the father of the plaintiff had this property at the Lianacoco put upon the tableau of assessment of taxes as part of his property many years ago; that the title and the possession of the plaintiff, and those under whom he claims, to the Lianacoco tract of land has always been public, and generally recognised by the public, both under the former and present government; and also, that Dame Porter was the sister of the grandfather of the plaintiff, and that she died without leaving any issue.

Cross interrogatories.

To the first interrogatory he answers and says: That he is distantly related to the plaintiff, his niece having married the father of the plaintiff, Ambrose Lecomte, being the mother of the plaintiff; that he has no interest, either directly or indirectly, in the result of this suit.

To the second interrogatory he answers and says: That he is eighty-four years of age; that he was born in, and has always resided in, the parish of Natchitoches.

To the third interrogatory he answers and says: That the boundary line between the post of Nacogdoches and Natchitoches was about six miles from the town of Natchitoches, at the bayou Rio Hondo, in a direction from said town north of west, under the Spanish government.

To the fourth interrogatory he answers and says: That he knows that the commandant of the post of Nacogdoches did, under the Spanish government, give permission to settle, or other titles to land between the Rio Hondo and the Sabine, and that the governor of the province of Louisiana never did give any such permission to his knowledge.

To the fifth interrogatory he answers and says: That he does not recollect of anything adverse to the claim of the plaintiff.

(Signed) PRUD'HOMME.

Sworn to and subscribed, this 21st day of January, A. D. 1847, before me.

(Signed) T. WILLIAMS,
Commissioner, U. States district court, district of Louisiana, and justice of the peace, parish of Natchitoches.

STATE OF LOUISIANA, *Parish of Natchitoches:*

By virtue of the annexed commission, I caused to come and appear before me, at my office, in the town and parish of Natchitoches, on the days and dates as herein before written, Antoine Prud'homme and Bertrand Plaisance, witnesses for the plaintiff in a certain suit now pending in the court of the United States for the district of Louisiana, in the city of New Orleans, in which Ambrose Lecomte is plaintiff, and the United

States are defendants; and the said witnesses having been duly sworn to true answers make to the interrogatories propounded to them in the said cause, their answers to the same were reduced to writing by me in their presence, and subscribed to by them, in the manner as hereinbefore specified, in my presence.

In testimony whereof I have hereunto subscribed my name and affixed the impress of my private seal, at the town of Natchitoches, this 22d day of January, A. D. 1847.

[SEAL.]

T. WILLIAMS,
Commissioner, U. States district court, district of Louisiana, and justice of the peace, parish of Natchitoches.

Original petition and grant.—Translation.

Don Juan Baptiste D'Artigau respectfully begs leave to state to your excellency that he desires to establish a stock farm, to raise horses, mares, and horned cattle, at the place called Lianacucu, within this jurisdiction; for said object, he prays your excellency will please grant him two leagues square of land at the above mentioned place, so that, in these two leagues, be included or embraced the entire prairie of Lianacucu. The petitioner solicits this grant for himself, his children and assigns, and, from your well known sense of justice, he hopes to obtain it.

(Signed) J. B. D'ARTIGAUX.

Nacogdoches, 31st July, 1797.

NACOGDOCHES, 31*st July*, 1797.

Let this petition be handed to the solicitor general of this place, in order that the petitioner be placed in possession of the land therein mentioned, if in so doing no prejudice can result to any third party.

(Signed) GUADIANA.

Deposition of H. A. Bullard.

AMBROSE LECOMTE vs. THE UNITED STATES. } No. 16.

According to notices duly issued to the defendants in this cause, to appear at the taking of testimony for the plaintiffs, to be used on the trial thereof, the plaintiffs appeared, represented by their counsel, Morse & Roysdon, and the defendants by the United States district attorney.

Henry A. Bullard, being duly sworn, states, upon being shown the document marked 3, (page 10,) already filed, that the order and signature of Guadiana, attached to said document, is the genuine handwriting of said Guadiana, and his proper signature. Witness first became acquainted with Guadiana in the year 1813. Witness had frequent communications with him at that time, and has often seen him write. Guadiana, at that time, was town major in the army at San Antonio. Deponent was then adjutant general of the army, and had frequent reports and communications from Guadiana in the discharge of their respective official duties.

Deponent states that it was a part of the history of the country that said Guadiana had been previously commandant of the post at Nacogdoches; witness did not know the fact personally.

No cross examination by the district attorney.

(Signed) H. A. BULLARD.

I, N. R. Jennings, duly appointed commissioner to take testimony in land causes, do certify, that the foregoing is the true deposition of Henry A. Bullard, a witness in behalf of plaintiffs, as taken down by me in writing.

And I further certify, that the said testimony, after being carefully read over to the said witness, was signed by him in my presence.

In witness whereof I hereunto set my hand and seal, this 6th of June, 1847.

(Signed) N. R. JENNINGS,
Commissioner.

Act of sale.

Aujourd'hui, dix-neuf du mois de Juin de l'année de notre Seigneur mil huit cent treize, je, soussignée, Marie Louise Lecomte, Dame Porter, sous ma marque ordinaire, et en présence des témoins soussignés, déclare, à tous à qui il appartiendra, avoir vendu, quitté, et délaissé à M. Jn. Bte. Lecomte, fils, une terre située à la prairie d'Yancoucou, ayant deux lieues carrées, pour le prix et somme de quatre cents piastres, dont je reconnais avoir reçu le paiement, promettant garantir à M. Jn. Bte. Lecomte, lui, ses hoirs et ayant-causes, la dite terre de tout trouble, hypothèque et empêchements quelconques.

Fait et passé aux Natchitoches, le jour et an que dessus.

Sa
MARIE LOUISE ⋈ LECOMTE,
DAME PORTER.
marque.

JN. PRE. MRE. DUBOIS, *témoin.*
JN. BTE. DUPOUEZ, *témoin.*

Before me, judge of the parish of Natchitoches, have personally appeared the witnesses signed to the above instrument, and being duly sworn, have declared that the above mark ordinary is the same of Maria Louise Lecomte, Dame Porter, which was affixed thereto in their presence.

Natchitoches, 3d July, 1813.

The parish judge,

(Signed) F. D. CAILLEAU LAFONTAINE.

I do hereby certify, that the above instrument of writing is duly recorded in the book of record of the parish of Natchitoches. Book 1st, folio 77 and 78.

In witness whereof I have hereunto set my hand and affixed my seal of office, Natchitoches, this 3d day of July, A. D. 1813.

[SEAL.]

The parish judge,

(Signed) F. D. CAILLEAU LAFONTAINE.

Receiver's certificate.

LAND DISTRICT, *south of Red river.*

Mr. John Bte. Lecomte has this day filed with the register and receiver, in support of his claim to a piece of land at a place called "The Lianacucu," a request, issued and signed by *Guiatana*, commandant of *Natchogdoches* dated July 31st, 1797, for two leagues square of land in favor of John Bte. Dartigeaux.

Natchitoches, December 27th, 1823.

(Signed) D. L. TODD, *Receiver.*

[For map see original.]

Document marked 10.

Notes of references.

At A, a pine tree marked on two sides, whence a pine tree bears S. 88° W., dist. 15 links, and a large pine tree N. 5° W., dist. 109 links.

B, a post, whence a pine tree bears N. 39° W., dist. 28 links, and a pine tree N. 73° W., dist. 33 links.

C, a post, a pine tree bears S. 66° W., dist. 32 links, and a red oak tree N. 42° E., dist. 33 links.

D, a post, a pine sapling bears N. 80° W., dist. links, and a pine tree N. 54° E., dist. 57 links.

E, a post, a pine tree bears N. 77° E., dist. 19 links, and a pine tree N. 4° E., dist. 32 links.

F, a post, a pine tree bears S. 40° E., dist. 6 links, and a pine tree N. 28° W., dist. 26 links.

G, a post, a laurel tree, bears N. 19° W., dist. 4 links, and a large pine tree N. 57° E., dist. 54 links.

H, a post, a pine tree bears N. 50° W., dist. 21 links, and a pine tree N. 68° W., dist. 21 links.

I, a post, a pine tree bears S. 14° E., dist. 42 links.

K, a post, a pine tree bears S. 61° E., dist. 58 links, and a pine tree S. 5° E., dist. 78 links.

L, a post, a pine tree bears N. 20° W., dist. 6 links, and a pine tree S 6° W., dist. 15 links.

M, a post, a red oak tree bears N. 37° E., dist. 10 links, and a large pine tree S. 38° E., dist. 18 links.

N, a post, a pine tree bears N. 58° E., dist. 24 links, and a pine tree N. 38° W., dist. 65 links.

O, a post, a large pine tree bears S. 83° E., dist. 14 links, and a large pine tree N. 31° W., dist. 98 links.

P, a post, a large pine tree bears N. 17° E., 27 links, and a large pine tree S. 86° E., dist. 90 links.

Q, a post, a pine tree bears S. 60° W., dist. 14 links, and a pine tree N. 88° E., dist. 49 links.

R, a post, a dogwood tree bears N. 67° W., dist. 23 links, and a hickory tree N. 42° E., dist. 65 links.

LLUSTRA

NO. 12

E END

RATION

2

OF ROL

12

Receiver's certificate.

LAND DISTRICT, *south of Red river.*

Mr. John Bte. Lecomte has this day filed with the register and receiver, in support of his claim to a piece of land at a place called "The Lianacucu," a request, issued and signed by *Guiatana*, commandant of *Natchogdoches* dated July 31st, 1797, for two leagues square of land in favor of John Bte. Dartigeaux.

Natchitoches, December 27th, 1823.

(Signed) D. L. TODD, *Receiver.*

[For map see original.]

Document marked 10.

Notes of references.

At A, a pine tree marked on two sides, whence a pine tree bears S. 88° W., dist. 15 links, and a large pine tree N. 5° W., dist. 109 links.

B, a post, whence a pine tree bears N. 39° W., dist. 28 links, and a pine tree N. 73° W., dist. 33 links.

C, a post, a pine tree bears S. 66° W., dist. 32 links, and a red oak tree N. 42° E., dist. 33 links.

D, a post, a pine sapling bears N. 80° W., dist. links, and a pine tree N. 54° E., dist. 57 links.

E, a post, a pine tree bears N. 77° E., dist. 19 links, and a pine tree N. 4° E., dist. 32 links.

F, a post, a pine tree bears S. 40° E., dist. 6 links, and a pine tree N. 28° W., dist. 26 links.

G, a post, a laurel tree, bears N. 19° W., dist. 4 links, and a large pine tree N. 57° E., dist. 54 links.

H, a post, a pine tree bears N. 50° W., dist. 21 links, and a pine tree N. 68° W., dist. 21 links.

I, a post, a pine tree bears S. 14° E., dist. 42 links.

K, a post, a pine tree bears S. 61° E., dist. 58 links, and a pine tree S. 5° E., dist. 78 links.

L, a post, a pine tree bears N. 20° W., dist. 6 links, and a pine tree S 6° W., dist. 15 links.

M, a post, a red oak tree bears N. 37° E., dist. 10 links, and a large pine tree S. 38° E., dist. 18 links.

N, a post, a pine tree bears N. 58° E., dist. 24 links, and a pine tree N. 38° W., dist. 65 links.

O, a post, a large pine tree bears S. 83° E., dist. 14 links, and a large pine tree N. 31° W., dist. 98 links.

P, a post, a large pine tree bears N. 17° E., 27 links, and a large pine tree S. 86° E., dist. 90 links.

Q, a post, a pine tree bears S. 60° W., dist. 14 links, and a pine tree N. 88° E., dist. 49 links.

R, a post, a dogwood tree bears N. 67° W., dist. 23 links, and a hickory tree N. 42° E., dist. 65 links.

I have, at the request of the claimant, surveyed, measured, and marked the boundaries of the above described tract of land, situate in the prairie Yanacocu, in the county of Natchitoches, containing twenty-three thousand five hundred and seven superficial acres, equal to twenty-seven thousand seven hundred and seventy-seven superficial arpens, and having such shape, form, and marks, natural and artificial, as are represented in the above plat and notes of reference. The claimant was present, and perfectly satisfied.

1813.

(Signed) JOSEPH ERWIN, *D. S.*

AUGUST BRUNET and
PIERRE DARBONNE, jun.,
Chain carriers.

[For map see original.]

Document B.—11.

TABLE OF CONTENTS.

Section.	Area.	Section.	Area.
1	644.08	19	639.12
2	639.68	20	641.84
3	634.25	21	637.68
4	633.69	22	639.00
5	639.47	23	643.32
6	637.61	24	640.00
7	638.48	25	639.36
8	642.00	26	642.00
9	637.80	27	637.28
10	636.80	28	636.80
11	640.80	29	641.60
12	642.24	30	638.60
13	640.80	31	635.56
14	641.32	32	640.80
15	638.20	33	638.52
16	639.04	34	637.68
17	641.52	35	640.00
18	639.24	36	639.36
	11,506.22		11,506.52
			11,506.22
		Total area	23,014.74

1175

	Miles.	Chains.	Links.	Dolls. Cts.
The east boundary of this township was surveyed by James McCaley, deputy surveyor, in the year 1825, at a variation of 9° 05′ east, at $4.00 per mile -	6	00	42	24 02
The north, south, and west boundaries were surveyed by Wm. B. Jackson, deputy surveyor, in the year 1830, at a variation of 9° east, at $4.00 per mile -	17	78	92	71 94
The interior sectional lines were surveyed [by] Wm. Jackson, deputy surveyor, in the year 1832, at a variation of 9° east, under contract of 26th day of February, 1830, at $4.00 per mile - - -	59	77	18	239 85
Total amount	83	76	52	385 82

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, December 27th, 1836.

The above township map has been examined and compared with the field notes on file in this office, and is approved.

(Signed) H. T. WILLIAMS,
Surveyor General of La.

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, 19th September, 1838.

The above is a true copy of an approved plat on file in this office.

(Signed) H. T. WILLIAMS,
Surveyor General, La.

Note of authorities, filed October 26th, 1847.

AMBROSE LECOMTE
vs.
THE UNITED STATES. } No. 16.

The plaintiff in this case claims four leagues of land at a place called Lianacoco, in the late Neutral Territory, by virtue of a grant executed by Guadiana, commandant of the post of Nacogdoches, in favor of J. B. Dartigeaux, who transferred the same to Marie Louise Lecomte, Dame Porter, from whom plaintiff acquired title.

1st. The original title of the plaintiff is inchoate, but is such as under the court of Spain would have ripened into a perfect title, and should therefore be confirmed. Delossus *vs.* the United States, 9th Peters, 129, 134; Land laws, edition 1828, pages 532, 548, 843.

2d. The grant in question has by its terms a special location, to wit, so as to include the whole of the Prairie Lianacoco. 10 Peters, 340. Query, was not this claim confirmed to the extent of one league by the act of Congress 12th April, 1814? Land Laws, (edition 1828,) page 651, and the act 29th April, 1816, page 701, sec. 3, Howard's Reports, 788.

3d. Inchoate titles were transferrable. Chouteau's heirs *vs.* United States, 9th Peters, 144. Transfers of land could be made by parol under the Spanish law, and parol proof of such transfer is therefore admissible. Sanches *vs.* Gonzales, 11 Martin's Reports, 207; Gonzales *vs.* Sanchez, 4 N. S. 657; Le Blanc *vs.* Viator, 6 N. S. 257; Muro *vs.* Gillard's heirs, 7 N. S. 317; Diurest's heirs *vs.* Bijean's estate, 8 N. S. 197; Sackett *vs.* Hooper, 3 L. R. 107.

See generally in this case "extracts from the code of Spanish laws," appendix Land laws, (edition 1828,) page 967; extract of the report of Valentine Ring & Co., appendix Land laws, 1039.

(Signed) P. A. MORSE,
Plaintiff's attorney.

Submission of cause.—Entry of record.

AMBROSE LECOMTE
vs.
THE UNITED STATES. } No. 16.

November 4th, 1847. Present, Hon. T. H. McCaleb.

Upon motion of the district attorney the foregoing case, as entitled and numbered, was submitted to the court under briefs.

Judgment.—Entry of record.

AMBROSE LECOMTE
vs.
THE UNITED STATES. } No. 16.

Monday, November 22d, 1847. Present, Hon. T. H. McCaleb.

The court having taken this cause under advisement, and having maturely considered the same, and it appearing that the petitioner has not sustained by the evidence offered the validity of his claim against the United States to the land set forth in his petition, it is therefore ordered, adjudged, and decreed, that the suit be dismissed at the costs of the plaintiff.

Motion for a new trial.—Entries of record.

Saturday, December 10th, 1847. Present, Hon. T. H. McCaleb.

AMBROSE LECOMTE
vs.
THE UNITED STATES. } No. 16.

Upon motion of Roysdon and Frost, of counsel for the plaintiff, it is ordered that Durant, esq., district attorney, shew cause, on Saturday, December 18th, at 10 o'clock, A. M., why a new trial should not be granted in the above cause, for reasons to be filed.

Judgment on motion.—Entry of record.

Saturday, December 18th, 1847. Present, Hon. T. H. McCaleb.

AMBROSE LECOMTE
vs.
THE UNITED STATES. } No. 16.

The rule taken on the 10th instant in this cause was to-day called for trial.

The district attorney, for the defendants, being present, the plaintiffs in rule not appearing either in person or by their counsel, the district attorney, upon showing to the court that no ground for a new trial had been filed, moved that the rule be dismissed. Whereupon it was ordered by the court that the rule be dismissed.

Engrossed judgment.

AMBROSE LECOMTE
vs.
THE UNITED STATES. } No. 16.

The court having taken this cause under advisement, and having maturely considered the same, and it appearing that the petitioner has not sustained, by the evidence offered, the validity of his claim against the United States to the land set forth in his petition, it is therefore ordered, adjudged, and decreed that the suit be dismissed at the cost of the plaintiff.

Judgment rendered 22d November, 1847.

Judgment signed 15th of December, 1847.

(Signed) THEO. H. McCALEB, [SEAL.]
U. S. Judge.

Order to withdraw briefs.—Entry of record.

TUESDAY, *December 21st*, 1847.

Present, honorable T. H. McCaleb.

AMBROSE LECOMTE
vs.
THE UNITED STATES. } No. 16.

In this case, as above entitled, judgment having been rendered, it is ordered that the United States district attorney be permitted to withdraw his brief filed in said case.

Petition for appeal, filed April 15th, 1848.

To the honorable the judge of the district court of the United States for the district of Louisiana.

The petition of Ambrose Lecomte, a resident citizen of the State of Louisiana, respectfully represents unto this honorable court, that heretofore he filed his certain petition and suit in this honorable court against

the United States (which suit is numbered 16 on the docket of the court) for certain lands, and the establishment of his titles thereto in said petition mentioned. That upon the trial of the issues made up in said cause between your petitioner and the United States and its proper officers, final judgment was rendered by this honorable court against your petitioner and in favor of the United States. That your petitioner is aggrieved by the said final judgment rendered by this honorable court against him in said cause, in this, that the judgment of the court upon the issues joined between the parties should have been in favor of your petitioner, and not in favor of the United States; and that an appeal to the next term of the Supreme Court of the United States, to be holden at the city of Washington, is necessary in order to enable him to secure and enforce his rights for the matters and things in his said suit contained.

Wherefore, the premises considered, petitioner prays to be allowed by this honorable court an appeal from the final judgment rendered by this court in the said suit above mentioned to the next term of the Supreme Court of the United States, to be holden for the United States at the city of Washington; he prays that all necessary orders and citations may issue to and be served upon the United States and the proper officers thereof, giving notice and information of this appeal; and he here offers to give bond and security for such sum as shall be required by the court for the appeal in this cause; he prays for general relief upon the premises, and will pray, &c.

(Signed) D. F. ROYSDON,
Attorney for petitioner.

Judge's order thereon.

On reading the within petition, it is ordered and decreed that an appeal be granted in accordance with the prayer of the petitioner, returnable to the next term of the Supreme Court of the United States, to be holden at the city of Washington, on the petitioner's entering into bond and security (according to law) in the sum of five hundred dollars, and that all necessary notices and citations issue.

Done in open court, at the city of New Orleans, this 15th day of April, 1848.

(Signed) THEO. H. McCALEB,
U. S. district Judge.

April 15th, 1848.

Motion for appeal.—Entry of record.

SATURDAY, *April 15th*, 1848.

Present, honorable Theo. H. McCaleb.

AMBROSE LECOMTE vs. THE UNITED STATES. } No. 16.

And now on this day comes the plaintiff, by his attorney, and moves the court to be allowed to file the following motion:

Ambrose Lecomte, the plaintiff in this cause, and against whom this honorable court has rendered final judgment, now here moves the court for an appeal from the judgment rendered against him in the suit brought by him against the United States, to the next term of the Supreme Court of the United States, holden at the city of Washington for said United States, and that all necessary notices and citations be issued and served in this appeal. He here offers to give such bond and security for the appeal as may be required by the court. He prays for all necessary orders and decrees to enable him to carry his appeal properly before the said Supreme Court.

Which motion is granted, on the plaintiff's entering into bond and security in the sum of five hundred dollars, according to law.

Bond on motion.

Know all men by these presents, that we, Ambrose Lecomte as principal, and J. B. Planché as security, are held and firmly bound, jointly and severally, unto the United States, in the sum of five hundred dollars, lawful money of the United States of America, to be paid to the said United States; for which payment, well and truly to be made, we bind ourselves, and each of us by himself, and each of our heirs, executors and administrators, firmly by these presents.

Sealed with our seals and dated the third day of May, in the year of our Lord eighteen hundred and forty-eight.

Whereas the said Ambrose Lecomte did, on the fifteenth of April, A. D. 1848, file a motion in the honorable the district court of the United States in and for the district of Louisiana, moving for an appeal from the judgment rendered against him in the suit brought by him against the United States to the next term of the Supreme Court of the United States, holden at the city of Washington for said United States, which said motion was granted by the honorable the district court of the United States aforesaid.

Now, the condition of the above obligation is, that we, the above bounden Ambrose Lecomte and J. B. Planché, will well and truly pay to the said United States, the defendants in said suit, all such costs as the said defendants may recover against us in case it should be decided that the granting of said motion for an appeal was wrongfully obtained.

Signed, A. LECOMTE, [SEAL.]
Signed, J. B. PLANCHE. [SEAL.]

Signed, sealed, and delivered, in presence of—
Signed, ROBERT M. LUSHER,
Deputy Clerk U. S. district court.

Appeal bond.

Know all men by these presents, that we, Ambrose Lecomte as principal, and J. B. Planché as security, are held and firmly bound, jointly and severally, unto the United States, in the sum of five hundred dollars, lawful money of the United States of America, to be paid to

the said United States; for which payment, well and truly to be made, we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated the third day of May, in the year of our Lord eighteen hundred and forty-eight.

Whereas the said Ambrose Lecomte did, on the fifteenth day of April, A. D. 1848, present a petition to the honorable the district court of the United States in and for the district of Louisiana, praying for an appeal from the judgment rendered against him in the suit brought by him against the United States to the next term of the Supreme Court of the United States, holden at the city of Washington for said United States, which appeal was granted him by the honorable United States district court aforesaid.

Now, the condition of the above obligation is, that we, the above bounden Ambrose Lecomte and J. B. Planché, will well and truly pay to the said United States, the defendants in said suit, all such costs as the said defendants may recover against us in case it should be decided that the said appeal was wrongfully obtained.

Signed, A. LECOMTE, [SEAL.]
Signed, J. B. PLANCHE. [SEAL.]

Signed, sealed, and delivered, in the presence of—
Signed, ROBERT M. LUSHER,
Deputy Clerk U. S. district court.

Office of the clerk of the United States district court for the district of Louisiana.

I, N. R. Jennings, clerk of the above entitled court, do hereby certify, that the foregoing sixty-nine pages, together with the diagram, (being the document marked 10,) and the township map, (being document B 11,) both inserted between pages 58 and 59, form a true, faithful, and correct transcript of all the proceedings, process, pleadings, documents, and other matters on file and of record in a certain case in chancery, wherein Ambrose Lecomte is plaintiff, and the United States of America are defendants, No. 16 of the docket of land causes of the said court.

In testimony whereof I have hereunto set my hand, and caused to be affixed the seal of the said court, at the city of New Or-
[L. S.] leans, this 11th day of November, A. D. 1848, and of the independence of the United States the seventy-third year.

N. R. JENNINGS, *Clerk*.

I, Theodore H. McCaleb, judge of the United States district court for the district of Louisiana, do hereby certify, that N. R. Jennings, who subscribed the above certificate, is the clerk of the said court, and that full faith and credit are due and ought to be given to his attestations as such, and that the above is in due form of law.

Given under my hand and seal, this 11th day of November, A. D. 1848. THEODORE H. McCALEB. [SEAL.]

The United States of America, to Thomas J. Durant, esquire, attorney of the United States for the district of Louisiana, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to an order of appeal filed in the clerk's office of the district court of the United States, for the district of Louisiana, wherein Ambrose Lecomte is appellant, and the United States of America are appellees, to show cause, if any there be, why the judgment rendered against the said appellant, and in your favor, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at New Orleans, this twelfth day of September, in the year of our Lord one thousand eight hundred and forty-eight.

THEO. H. McCALEB, *U. S. Judge*.

Returned into court, October 20th, 1848.

ROBERT M. LUSHER, *Deputy Clerk*.

Marshal's return.

Received September 13th, 1848, and on the same day I served a copy of the within citation of appeal on Thomas J. Durant, esq., by leaving the same at his office with C. W. Horner, esq., he being out of the city of New Orleans at the time.

Returned October 20th, 1848.

J. PRADOS, Jr., *Deputy U. S. Marshal*.

Filed November 28, 1848.